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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION TWO

In re K.A., a Person Coming Under the
Juvenile Court Law.

RIVERSIDE COUNTY DEPARTMENT
OF PUBLIC SOCIAL SERVICES,

Plaintiff and Respondent,

v.

E.M.,

Defendant and Appellant.

E057245

(Super.Ct.No. INJ020242)

OPINION

APPEAL from the Superior Court of Riverside County. Lawrence P. Best,
Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Roni Keller, under appointment by the Court of Appeal, for Defendant and
Appellant.

Pamela J. Walls, County Counsel, Julie Koons Jarvi, Deputy County Counsel, for
Plaintiff and Respondent.

No appearance for Minor.

The juvenile court terminated E.M.'s (Mother's) parental rights to her daughter, K.A. (Welf. & Inst. Code, § 366.26, subd. (b)(1).)¹ Mother raises four issues on appeal. First, Mother asserts the juvenile court erred by not continuing the termination hearing so a parent-child bonding study could be performed. Second, Mother contends the juvenile court erred by not granting Mother's request to change a court order. (§ 388.) Third, Mother asserts the juvenile court erred by not applying the parent-child bond exception to terminating parental rights. (§ 366.26, subd. (c)(1)(B)(i).) Fourth, Mother contends the juvenile court erred by terminating her parental rights because the evidence does not support the finding K.A. is adoptable. We affirm the judgment.

FACTUAL AND PROCEDURAL HISTORY

A. BACKGROUND

K.A. is female and was born in August 2008. Mother and her boyfriend, K.A.1 (Father), dated for four or five years. Mother and Father worked for a carnival. Father had a son who lived in the Coachella Valley area. A substantiated allegation of caretaker absence was made against Father, in regard to his son, on April 11, 2006. Father did not have a relationship with his son; he did not provide for his son's care.

B. FIRST DETENTION

On August 11, 2008, the Mendocino County Health and Human Services Agency (Mendocino Agency) received a referral reflecting K.A. was born six weeks premature and tested positive for (1) amphetamines/methamphetamines, and (2) cannabinoids/THC.

¹ All subsequent statutory references will be to the Welfare and Institutions Code, unless otherwise indicated.

Mother said she did not know why she would have tested positive for methamphetamines, but theorized Father gave her a drugged can of soda. Mother told a Mendocino Agency social worker she received prenatal care while traveling with the carnival, but was unable to provide any names or addresses for doctors or hospitals.

The social worker contacted Father's mother (Grandmother), and Grandmother agreed to provide care for K.A. A law enforcement report reflected Mother had a bench warrant, and Father had a misdemeanor warrant in Riverside County. Mother explained she had failed to appear at a hearing for a rape case, in which she was the victim. The social worker notified law enforcement of the warrants, and officers met Mother and Father at the hospital. The officers informed Mother and Father they were being arrested. The Department detained K.A., but K.A. remained at the hospital in Ukiah.

The Mendocino Agency filed a petition alleging Mother's abuse of methamphetamines and marijuana rendered her unable to provide adequate care for K.A., and Mother failed to protect K.A. by not seeking prenatal care. (§ 300, subd. (b).) It was further alleged that Mother and Father were incarcerated in a Mendocino County jail, leaving K.A. with no provision for support. (§ 300, subd. (g).) The Mendocino County Juvenile Court (Mendocino Court) ordered K.A. be detained.

C. FIRST JURISDICTION HEARING

On August 15, 2008, K.A. was placed in a foster home. Mother told the Mendocino Agency her permanent address was in Thermal, and Father said his permanent address was in Cathedral City. Mother and Father were transported, in law enforcement custody, to Riverside County. Father was released from jail, but remained

on probation for a 2004 domestic battery conviction. (Pen. Code, § 243, subd. (e).)

Mother was also released from jail.

Mother admitted smoking methamphetamine “just prior” to K.A.’s birth. Mother explained that she is bipolar and uses methamphetamine and marijuana to self-medicate. Mother said she consumed methamphetamines “once every few months.” Father admitted abusing marijuana, but believed he might also test positive for cocaine.

The Mendocino Court found true the allegations that Mother (1) was unable to provide regular care for K.A. due to Mother’s substance abuse, and (2) failed to provide adequate care for K.A. by not seeking prenatal medical treatment. (§ 300, subd. (b).) The Mendocino Court transferred K.A.’s dependency case to Riverside County; Riverside County accepted the case.

D. FIRST DISPOSITION HEARING

K.A. remained in her foster home in Ukiah. The Riverside County Department of Public Social Services (the Department) began the process of transferring K.A. to the Coachella Valley. Mother admitted to a Department social worker that she used methamphetamines and marijuana while pregnant with K.A. As to the marijuana, Mother said, “I didn’t think it would hurt the baby that bad.” In regard to abusing methamphetamine prior to K.A. being born, Mother said, “One time wouldn’t kill anything.” Mother also admitted to not seeking regular prenatal care due to traveling with the carnival. Mother explained she did not appear to testify in the rape case because the defendant and his family threatened to harm or kill Mother if she testified.

Mother obtained a job working one day per week at a department store. Mother began residing with her grandmother, who was ill. Father obtained a job working for a telephone company. Father began residing with his mother. Father's mother did not want Father to reside in her house with K.A. Father said he did not have the financial resources to support K.A. Father did not know the whereabouts of his son. Father admitted violating the terms of his probation by not paying fines and failing to complete his anger management course. Mendocino County provided Mother and Father with travel accommodations to visit K.A. Mother and Father visited K.A. three times, traveling from Indio to Ukiah for the visits—the trips were 16 hours each direction.

The Riverside County Juvenile Court (the “juvenile court”) released K.A. to Mother's care under the Department's supervision, in a family maintenance plan. Reunification services were offered to Father.

E. SIX MONTH REVIEW

Mother was placed in the witness protection program and moved to Sacramento County while waiting to testify against her alleged rapist. Prior to moving, Mother had enrolled in a substance abuse treatment program. Mother tested positive for marijuana on November 5 and November 10, 2008. Mother informed the Department she planned to stay in Sacramento and start “her new life.” Father also moved to Sacramento. On February 5, 2009, the juvenile court began the process of transferring the matter to Sacramento County.

F. SECOND DETENTION

On February 24, 2009, Riverside County filed a supplemental petition in the instant case. (Welf. & Inst. Code, § 387.) In the petition, Riverside County asserted a Sacramento County sheriff's deputy found Mother "highly intoxicated" while K.A. was in her care. Specifically, Mother was seen falling to the ground, intoxicated, while pushing K.A. in a stroller. Mother had difficulty regaining her footing and was unable to push the stroller in a straight line. K.A. was crying, her blanket was wet, the outside temperature was 46 degrees, and K.A.'s hands were cold. Mother took a breathalyzer test, which reflected a 0.23 blood alcohol level. Mother was arrested for endangering K.A. (Pen. Code, § 273a, subd. (a).)

K.A. was detained in Sacramento County and placed in a foster home. Father informed a Department social worker that he had no housing, income, or ability to support K.A. On February 25, 2009, the juvenile court ordered K.A. be detained. A Department social worker traveled to Sacramento County to pick up K.A. and return her to Riverside County. On March 5, 2009, the Sacramento County Juvenile Court (Sacramento Court) accepted the transfer of K.A.'s case.

G. SECOND JURISDICTION/DISPOSITION HEARING

Mother and Father moved back to Riverside County. Sacramento County ordered the case returned to Riverside County. K.A. was placed in a foster home in the Coachella Valley. Mother returned to living with her ill grandmother. On March 16, Mother called the police because a relative of Mother's alleged rapist was stalking

Mother as Mother walked down a street in Indio. Mother feared for her life and was afraid to go home.

Mother was sentenced to 15 days in jail for endangering K.A. in Sacramento. Mother admitted to a Department social worker that she drank alcohol prior to taking K.A. for a walk in the cold rain. Father told the social worker he was not aware Mother was drinking the day K.A. was taken into protective custody. Mother and Father visited K.A. three times after all three were returned to Riverside County from Sacramento County. The visits were “strong.” Mother and Father appeared “very emotional” at the visits.

On March 25, 2009, the juvenile court accepted the transfer of the case from the Sacramento Court. The juvenile court found true the allegation that Mother was “highly intoxicated” while K.A. was in her care. The juvenile court ordered K.A. continue to remain outside Mother’s and Father’s physical custody, but granted Mother and Father weekly visitation with K.A. with a maximum of four hours of visitation per week.

H. 12-MONTH STATUS REVIEW

Mother obtained a job at a fast-food restaurant. Mother continued residing with her ill grandmother. Mother tested positive for marijuana on March 12, 14, 16, 17, 25, and 26. Mother tested positive for opiates on April 23 and May1. Mother denied consuming opiates. Mother blamed the positive test results on a drugged beverage, her inhaler, and her birth control pills. Mother’s April 23 test was broken down, and the opiate was specifically identified as Codeine. Mother was still waiting to testify against her alleged rapist, but said she no longer feared for her life.

Mother regularly attended one hour of weekly supervised visits with K.A. During visits, Mother gave K.A. hugs and kisses and assisted her in learning to crawl and walk. A Department social worker concluded, "There is no doubt that [Mother] loves [K.A.] very much." Father moved to Pasadena, where he obtained a job as a food service worker at a gas station. K.A. continued to reside in her foster home, where she was "thriving" and appeared to be a "happy infant."

The juvenile court found K.A. came within the court's jurisdiction due to Mother's and Father's (1) inability to adequately supervise and protect the child (§ 300, subd. (b)), and (2) inability to financially support the child (§ 300, subd. (g)). The court ordered K.A. continue to live outside of Mother's and Father's physical custody. The court ordered that reunification services and visitation continue.

I. 18-MONTH STATUS REVIEW

Mother's grandmother passed away. Mother continued living in her grandmother's home. Mother was not employed, but received an inheritance from her grandmother's estate. Mother tested positive for opiates again on August 26, 2009. Mother again denied knowing the reason for the positive test. Mother requested a hair follicle drug test; the results were negative. Mother continued progressing in the Family Preservation Court program. Father was caring for his mother, who required "total assistance." Father was not participating in reunification services due to caring for his mother.

On November 6, 2009, K.A. was referred to a neurologist because her gait was unsteady and her legs would "give out without warning, causing frequent falls." K.A.

began wearing a helmet. Mother's visits with K.A. continued to be supervised and were "generally positive." K.A.'s foster parents were willing to adopt her if Mother failed to reunify with K.A. On January 19, 2010, the juvenile court authorized unsupervised overnight weekend visits for Mother and Father, at the Department's discretion.

Mother was working at a fast-food restaurant and was nearing graduation from Family Preservation Court. Mother began having unsupervised visits with K.A. K.A. suffered from developmental delays, speech delays, and problems with walking/falling. An orthopedic surgeon found no bone problems with K.A., and thus, K.A. was scheduled to be checked for neurological disorders. The Department began putting special services in place for K.A. to be returned to Mother's care. The Department felt it was important to have the services ready prior to K.A. being placed with Mother, so K.A.'s special needs would not create a cause for removal. K.A.'s foster parents permitted Mother to attend K.A.'s various medical appointments.

On April 19, 2010, the juvenile court found a compelling reason existed for not scheduling the hearing to terminate Mother's and Father's parental rights, in that the hearing was not in K.A.'s best interests due to K.A. not being "a proper subject for adoption" and no one being willing to accept legal guardianship for the child. The juvenile court ordered K.A. continue to be placed outside of Mother's and Father's physical custody; it found a substantial probability that K.A. would be returned to Mother within six months, and therefore ordered reunification services continue for Mother. The juvenile court authorized the Department to place Mother on a plan of family maintenance services.

J. TWENTY-FOUR-MONTH REVIEW

K.A. was placed in Mother's care. Mother continued working at the fast-food restaurant and living in her grandmother's former home. K.A. was "strong-willed" but "generally pleasant." Mother was providing K.A. with balanced meals, playtime, and a well furnished home. Mother maintained her sobriety. The Department recommended the juvenile court terminate K.A.'s dependency and grant Mother sole physical and legal custody of K.A.

On July 7, 2010, the juvenile court found Mother complied with her case plan. The court terminated K.A.'s dependency, and granted Mother sole physical and legal custody of K.A. with visitation for Father.

K. THIRD DETENTION

On May 28, 2011, Mother was on a bus in the Palm Desert area asking people for money. Mother appeared to be having trouble maintaining her balance as she pushed K.A. in a stroller. Mother smelled of alcohol and was incoherent. Mother was arrested for being drunk in public. A breathalyzer test revealed Mother's blood alcohol level was "two times over the legal limit for alcohol." Mother admitted drinking alcohol and smoking marijuana. It also appeared Mother and K.A. had been walking in the heat "for [a]while." Father could not be reached, and therefore the Department detained K.A; she was placed in a foster home.

The following day, after Mother was released from jail, Mother explained to a Department social worker that she drank because she discovered Father was having an

affair and fought with him. Mother's sister told the social worker Mother "yells and screams" at K.A. and threatened to hit K.A., causing K.A. to cry in fear.

On June 1, 2011, the Department filed a petition alleging Mother endangered K.A. by (1) being drunk in public to the point of being incoherent, (2) abusing controlled substances, such as marijuana, and (3) failing to seek treatment for her mental health issues. (§ 300, subd. (b).) Further, the Department alleged Father endangered K.A. by suffering a prior conviction for domestic battery (§ 300, subd. (b)), and that Father failed to provide support for K.A. (§ 300, subd. (g)). The juvenile court ordered K.A. continue to be detained outside of Mother's custody and that Mother participate in a mental health evaluation. The juvenile court granted visitation a minimum of one time per week.

L. THIRD JURISDICTION/DISPOSITION

Mother visited K.A. at her foster home. K.A. screamed when the visit ended because Mother was leaving. During the second visit, at a Department office, K.A. was very aggressive toward Mother. Mother tried to calm K.A. At the end of the visit, K.A. went with her foster family without incident.

The Department filed an amended petition on June 30, 2011. The amended petition deleted the allegation that Father left K.A. without support. (§ 300, subd. (g).) The juvenile court found true the allegations that Mother endangered K.A. by being drunk in public, abusing controlled substances, and not treating her mental health issues. The juvenile court ordered K.A. continue to be removed from Mother's physical custody.

M. SECOND SIX-MONTH STATUS REVIEW

Mother completed her parenting classes, participated in Alcoholics Anonymous meetings, and continued to test negative for controlled substances. On October 28, 2011, the Department requested the juvenile court grant Mother unsupervised overnight and weekend visits with K.A.; the court granted the request. K.A. appeared very happy to see Mother on weekends. A Department social worker concluded K.A. was bonded to Mother. K.A. continued to have an unsteady gait. It was possible the unsteadiness was due to her rapid growth in height or her flat feet. K.A. was very tall for her age. Mother and Father ended their romantic relationship. Father did not want to be a parent to K.A.

The juvenile court returned K.A. to Mother's physical custody on a plan of family maintenance. The court terminated Father's reunification services.

N. FOURTH DETENTION

On February 15, 2012, Mother was in a park with K.A. and appeared to be intoxicated. A law enforcement officer determined Mother was intoxicated; Mother admitted using methamphetamines. Mother was arrested and charged with child endangerment and being under the influence of a controlled substance. The Department detained K.A. and returned her to her prior foster home.

The following day, on February 16, Mother told a Department social worker that she had not used methamphetamines "in 'over four years.'" The social worker reminded Mother that K.A. was less than four years old, and the case started because Mother used methamphetamines while pregnant with K.A. Mother then admitted

smoking marijuana and cocaine on February 15, although Mother believed it was only marijuana at the time she smoked it—she later discovered there was also cocaine mixed into the marijuana. Father told the social worker he was married and working in Los Angeles, so he could care for K.A.

The Department filed a supplemental petition on February 17, 2012, alleging Mother failed to protect K.A. by continuing to abuse methamphetamines while K.A. was in her custody. The court ordered K.A. continue to be detained. The court provided Mother with reunification services and weekly visits with K.A.

O. FOURTH JURISDICTION/DISPOSITION AND FATHER’S REQUEST
TO CHANGE A COURT ORDER

Father did not follow-up with the Department regarding taking custody of K.A. Thus, K.A. remained in her foster home. Mother told the Department the latest incident in the park was a mistake and she wanted to try reunification services again. A social worker encouraged Mother to participate in an inpatient substance abuse treatment program. The social worker gave Mother a list of programs, but Mother failed to select one. K.A.’s foster mother described K.A. as “happy and doing well in the home.”

On April 20, 2012, Father filed a request to change a court order. Specifically, Father requested the court change the order denying him reunification services. Father asked the court to place K.A. in his physical custody on a family maintenance plan, or reinstate reunification services. Father visited K.A. on May 1 and the visit was “adequate.” A social worker instructed Father to immediately take a hair follicle drug

test. Father informed the social worker he would test positive for marijuana and Vicodin. Father did not take the drug test.

The juvenile court denied Father's request to change a court order. The court found true the allegation that Mother continued to abuse methamphetamines resulting in Mother's arrest and inability to protect K.A. The court ordered K.A. continue to be removed from Mother's physical custody. The court denied Mother reunification services due to Mother's extensive and chronic use of drugs, and Mother's failure to comply with the drug treatment described in her case plan. (§ 361.5, subd. (b)(13).) The juvenile court granted Mother visits with K.A. for one hour per month.

P. TERMINATION OF PARENTAL RIGHTS AND MOTHER'S
REQUEST TO CHANGE A COURT ORDER

Mother took a drug test on July 27, 2012, and tested positive for synthetic marijuana. K.A. told a maternal relative how Mother used a marijuana pipe and methamphetamine pipe, and the location where Mother smoked the pipes.

K.A. was four years old in August 2012. K.A. was "very healthy" and "bright." K.A. enjoyed running and playing outside, she knew her colors, shapes, and how to count to 50. K.A. was matched with a prospective adoptive parent and moved into her home. K.A. appeared to be "overjoyed" with her prospective adoptive family. K.A. had been taking Clonidine to sleep at night, but was "so happy and content" living with her prospective adoptive parent that she was weaning off the sleep medication.

On August 20, 2012, the Department submitted a Preliminary Adoption Assessment Report. The report reflected K.A. was developmentally on track, happy,

and well-adjusted. The report described the prospective adoptive home, the prospective adoptive parent's extended family, career, and lack of criminal history. The report also described K.A. as bonded to her prospective adoptive parent. The report noted that the prospective adoptive parent's home study was "fully approved."

On August 27, 2012, Mother filed a request to change the court's orders denying Mother reunification services and setting a hearing to terminate Mother's parental rights. Mother asserted circumstances had changed because she completed a 45-day inpatient substance abuse treatment program and reenrolled in Family Preservation Court. Mother requested the juvenile court return K.A. to Mother's care on a family maintenance plan. The juvenile court ordered a hearing on Mother's request.

At the hearing, Mother's attorney asserted K.A. was bonded to Mother after living with Mother for a substantial portion of her life. K.A.'s attorney argued K.A. needed permanency, and "[e]very time . . . mom relapses, the child is placed at extreme risk." K.A.'s attorney asked the court to deny Mother's request to change a court order. Mother spoke at the hearing. Mother told the court, "I have really bonded with my kid, with my daughter off and on." Mother explained, "I can't say I've totally changed, but I have had a lot of growth" Mother also provided proof that she was employed by a fast-food restaurant.

Mother's attorney asked the juvenile court that if it denied the request to change a court order, then it order a bonding study, because K.A. lived with Mother for one and a half years. The juvenile court denied Mother's request to change a court order. The court found, "The child is in a stable home now and deserves that stability." The court

reasoned, “So, although there may have been changed circumstances and new evidence, I do not believe the burden has been met to show it’s in the child’s best interest” Thus, the court denied Mother’s request to change a court order.

The juvenile court then moved to considering the termination of Mother’s parental rights. The Department asked the court not to continue the termination hearing. The Department asserted the burden was on Mother to prove the parent-child bond exception applied. The Department argued the parent-child bond exception did not apply because Mother was only a “familiar face” with “an occasional visit.”

Mother argued the Department’s report needed to include information about the parent-child bond. Alternatively, Mother asked the court to order legal guardianship. The juvenile court found termination of Mother’s and Father’s parental rights would not be detrimental to K.A. The juvenile court remarked that K.A. was happy in her prospective adoptive home, “calm and stable,” bonded to her prospective adoptive mother, and had not asked about Mother or Father. Accordingly, the juvenile court concluded Mother failed to show the parent-child bond exception applied. The court found K.A. was likely to be adopted. The juvenile court terminated Mother’s and Father’s parental rights to K.A. The court ordered K.A.’s permanent plan be adoption.

DISCUSSION

A. CONTINUANCE

Mother contends the juvenile court erred by not continuing the termination hearing so that a bonding study could be conducted. We disagree.

A juvenile court may grant a continuance so long as the continuance is in the child's interest. When considering the child's interest, the juvenile court must "give substantial weight to a minor's need for prompt resolution of his or her custody status, the need to provide children with stable environments, and the damage to a minor of prolonged temporary placements." (§ 352, subd. (a).) A continuance must be supported by a showing of good cause. A pending criminal prosecution or family law matter do not constitute good cause. (§ 352, subd. (a).)

In order to move for a continuance, written notice of the motion must be filed "at least two court days prior to the date set for hearing, together with affidavits or declarations detailing specific facts showing that a continuance is necessary, unless the court for good cause entertains an oral motion for continuance." (§ 352, subd. (a).) "We review the denial of a continuance for abuse of discretion. [Citation.]" (*In re Giovanni F.* (2010) 184 Cal.App.4th 594, 605.)

On May 18, 2012, the juvenile court ended Mother's reunification services and scheduled the hearing on termination of parental rights for September 14, 2012. On August 14, 2012, the Department filed its report concerning the termination of parental rights. In the report, the Department recommended Mother's parental rights be terminated. The Department noted that two weeks prior, on August 1, 2012, Mother tested positive for synthetic marijuana. On August 20, 2012, the Department filed an addendum report again recommending that Mother's parental rights be terminated. The addendum report was essentially K.A.'s preliminary adoption assessment—detailing her

relationship with her prospective adoptive mother and the facts of the prospective adoptive parent's life.

On August 27, 2012, Mother filed her request to change a court order. Mother asked the juvenile court to place K.A. in her physical custody on a plan of family maintenance. Mother did not request a continuance. The court ordered a hearing on Mother's request, and scheduled that hearing for September 26, 2012. On September 5, 2012, the Department filed a second addendum report. In the report, the Department recommended the court deny Mother's request to change a court order.

At the scheduled termination hearing on September 14, Father's attorney requested a continuance so that Father could attend the hearing. The court granted the continuance. The termination hearing was rescheduled for September 26, 2012; the termination hearing took place on that date. At that hearing, Mother's attorney made an oral motion for the court to continue the termination hearing so a bonding study could be conducted for Mother and K.A.

Mother's attorney explained the continuance was needed because "There was time . . . it was 2010 . . . when the department had asked for adoption and they changed their mind and said, 'No, let's give the child back to mother.' And it wasn't for a year and a half until the department intervened again."

The trial court's decision to not grant a continuance for a bonding study was reasonable because (1) the hearing had already been continued once to permit Father to attend; (2) Mother wanted the continuance in order to detail information that had been available since 2011; (3) Mother did not request the continuance in writing; and

(4) Mother knew about the scheduled termination hearing for four months. Thus the record reflects there was not good cause for the continuance. If Mother wanted a bonding study to be conducted, she had plenty of time to make the request prior to the day of the hearing. Additionally, if Mother needed the continuance, she had time to make the request in writing. Mother's only "good cause" reason for needing the continuance was to assemble information that, by her own admission, had been available since approximately 2011. Given Mother's reasoning and delay in seeking the continuance, the juvenile court's denial of the continuance was within reason.

Mother contends the juvenile court erred because a report concerning the termination of parental rights must include information about the nature of the contact between the child and her parents since the time of placement. (§ 366.21, subd. (i)(1)(B).) In the original report submitted by the Department following the termination of Mother's reunification services, the Department described Mother's and K.A.'s history from 2008 through 2012, as well as the details of Mother's most recent contact with K.A., such as Mother giving K.A. a necklace to "always remind her of her mom." Thus, it appears the juvenile court acted within reason by denying the requested continuance, because the Department's report included the required information regarding contact between Mother and K.A.

Next, Mother argues the juvenile court erred because the court had the power to appoint an expert "at any time before or during the trial of an action." (Evid. Code, § 730.) While the juvenile court may have the authority to appoint an expert, it is

unclear from Mother's argument why good cause existed to continue a hearing that was scheduled four months in advance and previously continued.

Mother advances the argument that the juvenile court needed a "full" report before it could make a ruling, but we are left without good cause on the timing element. Why did Mother not request the bonding study during the four months after her reunification services were terminated? Why did Mother not submit a written motion for a continuance? Mother's delay or failure to comply with the procedural requirements of section 352 does not create good cause for a continuance. Accordingly, we find Mother's argument to be unpersuasive.

B. REQUEST TO CHANGE A COURT ORDER

Mother contends the juvenile court erred by denying her request to change a court order. (§ 388.) We disagree.

"A juvenile court order may be changed, modified or set aside under section 388 if the petitioner establishes by a preponderance of the evidence that (1) new evidence or changed circumstances exist, and (2) the proposed change would promote the best interests of the child. [Citation.]" (*In re A.A.* (2012) 203 Cal.App.4th 597, 611 [Fourth Dist., Div. Two].) The parent bears the burden of proof when requesting a change of a court order. (*Id.* at pp. 611-612.)

"In evaluating whether the petitioner has met his or her burden to show changed circumstances, the trial court should consider: (1) the seriousness of the problem which led to the dependency, and the reason for any continuation of that problem; (2) the strength of relative bonds between the dependent children to both parent and caretakers;

and (3) the degree to which the problem may be easily removed or ameliorated, and the degree to which it actually has been. [Citation.] The petition is addressed to the sound discretion of the juvenile court, and its decision will not be overturned on appeal in the absence of a clear abuse of discretion. [Citations.]” (*In re A.A.*, *supra*, 203 Cal.App.4th at p. 612.)

We first examine the seriousness of the problem that led to the dependency. In 2008, K.A. was detained in Mendocino County because she was born six weeks premature and tested positive for (1) amphetamines/methamphetamines, and (2) cannabinoids/THC. In February 2009, K.A. was detained in Sacramento County when Mother was falling down due to intoxication. Mother took a breathalyzer test, which reflected a 0.23 blood alcohol level. In May 2011, K.A. was detained in Riverside County when Mother appeared intoxicated on a bus and was having trouble maintaining her balance. A breathalyzer test revealed Mother’s blood alcohol level was “two times over the legal limit for alcohol.” Mother admitted drinking alcohol and smoking marijuana. In February 2012, K.A. was detained a fourth time after Mother was found intoxicated in a park. Mother admitted smoking marijuana and cocaine on February 15, 2012.

Given the evidence and allegations in the various petitions, the problem that led to the various dependencies was Mother’s drug abuse. The problem was serious in that Mother had repeatedly been with K.A. while dangerously intoxicated. During the incident that led to the second detention, K.A. was found wet in cold weather. During the incident that led to the third detention, it appeared Mother and K.A. had been

walking in the desert heat for some time. During the incident that led to the fourth incident, K.A. was with Mother in the park while Mother was intoxicated due to consuming marijuana and cocaine.

Second, we consider the strength of the bond between Mother and K.A. After the third incident, where K.A. was removed from Mother following the bus trip, K.A. was placed in a foster home. The following day, the social worker went to K.A.'s foster home. K.A. hugged the social worker. The social worker gave K.A. a telephone, so she could talk to Mother. K.A. took the telephone, said, "Hi, I love you," and then gave the phone back to the social worker. The social worker asked K.A. to talk to Mother, but she chose not to and went to play with the other children at the foster home. After the fourth incident, when K.A. was placed in her prospective adoptive home, K.A. did not ask about Mother or Father.

It appears from the record that K.A. likely cares for Mother, but they do not share a particularly strong bond. K.A. was not upset when detained from Mother for the third time, as evinced by K.A. (1) choosing not to speak to Mother, and (2) not being upset by the limited contact with Mother. The bond appears to have weakened even further by the fourth detention because K.A. was not asking about Mother. Given this evidence, it appears the two do not share a particularly strong bond.

Third, we examine the degree to which the problem may be easily removed or ameliorated, and the degree to which it actually has been. Mother's request to change a court order was filed on August 27, 2012. Mother tested positive for synthetic marijuana on August 1, 2012. Mother admitted smoking marijuana and cocaine on

February 15, 2012. Given that Mother had synthetic marijuana in her system within the same month as her filing the request to change a court order, it could reasonably be concluded that Mother's substance abuse problem had in no way been removed or ameliorated. Mother had been receiving services for her drug issues since 2008. Given that four years of drug treatment did not stop Mother from abusing drugs, the juvenile court could reasonably conclude the problem could not be easily resolved.

Due to Mother's continued drug abuse, the juvenile court could reasonably conclude that Mother's circumstances had not changed. Thus, the juvenile court did not err in denying Mother's request to change a court order.²

Mother asserts the juvenile court erred because K.A. was bonded with Mother, and therefore placing K.A. in Mother's custody was in K.A.'s best interests. Any modification of a court order must promote the child's interests. "The minor[']s interest after termination of reunification services is generally in permanence and stability. [Citation.] However, if the minor[] would benefit from a continuing relationship with the parents, termination of parental rights is detrimental to the minor[']s interests. [Citation.]" (*In re S.R.* (2009) 173 Cal.App.4th 864, 871.)

² We note the juvenile court said, "there may have been changed circumstances," and decided the issue on the best interests prong, but we review the ruling, not the reasons for the ruling. (*In re Marriage of Sabine M. & Toshio M.* (2007) 153 Cal.App.4th 1203, 1212.)

As set forth *ante*, it does not appear K.A. and Mother shared a particularly strong bond. K.A. did not ask about Mother after the fourth removal, and K.A. was not interested in speaking to Mother on the telephone after the third removal. It appears K.A. had loving feelings toward Mother when Mother was present, but was not particularly attached to her, in that Mother's absence did not create a great disturbance in K.A.'s life. Given that K.A. was four years old at the time of termination and had been removed from Mother's care four separate times in three different counties, the juvenile court could reasonably conclude that K.A.'s interest in stability was the greater and overriding interest when compared to preserving the seemingly weak relationship shared by K.A. and Mother. In sum, we find Mother's argument to be unpersuasive.

C. PARENT-CHILD BOND EXCEPTION

Mother contends the juvenile court erred by terminating her parental rights because the court should have applied the parent-child bond exception. (§ 366.26, subd. (c)(1)(B)(i).) We disagree.

If a juvenile court finds a dependent child is adoptable, then it will terminate parental rights unless one of the statutorily enumerated exceptions is applicable. (§ 366.26, subd. (c)(1).) One of the enumerated exceptions provides that parental rights shall not be terminated if "[t]he parents have maintained regular visitation and contact with the child and the child would benefit from continuing the relationship." (§ 366.26, subd. (c)(1)(B)(i).) We review the juvenile court's decision to not apply the parent-

child bond exception for an abuse of discretion.³ (*In re Aaliyah R.* (2006) 136 Cal.App.4th 437, 449.)

The first requirement for the parent-child bond exception is that Mother maintained regular visitation with the child, thus, we address that issue first. The fourth detention began when Mother and K.A. were found in the park on February 15, 2012. On February 21, 2012, Mother was granted visitation with K.A. a minimum of one time per week. A Department report filed March 9, 2012, reflected Mother had visited K.A. two times. Mother's services were terminated on May 18, 2012, and her visitation with K.A. was changed to once per month for one hour. On June 26, 2012, Mother arrived 20 minutes late for a visitation appointment. When the person supervising the visit took K.A. "to the front" to find Mother, Mother could not be located. Approximately 10 minutes later Mother entered the building—Mother had been outside smoking.

Mother was granted such infrequent visitation with K.A. that the delay of half an hour of a visitation appointment could provide the basis for finding Mother did not have

³ There appears to be a split of authority as to which standard of review is applicable to a decision to not apply the parent-child bond exception—substantial evidence or abuse of discretion. (*In re Clifton B.* (2000) 81 Cal.App.4th 415, 424-425 [Fourth Dist., Div. Three applied the substantial evidence standard]; *In re Autumn H.* (1994) 27 Cal.App.4th 567, 576 [Fourth Dist., Div. One applied the substantial evidence standard].) In the "standard of review" section of Mother's opening brief, she describes the burden of proof as "a preponderance of the evidence." We choose to follow the precedent of *In re Jasmine D.* (2000) 78 Cal.App.4th 1339, 1351, which explained the abuse of discretion standard is applicable because "[t]he juvenile court is determining which kind of custody is appropriate for the child[, and s]uch a decision is typically review[ed] for abuse of discretion."

regular contact or visitation with K.A. Nevertheless, we will address the benefit prong of the analysis.

“The benefit to the child from continuing such a relationship must . . . be such that the relationship “promotes the well-being of the child to such a degree as to outweigh the well-being the child would gain in a permanent home with new, adoptive parents.” [Citation.]” (*In re Aaliyah R.*, *supra*, 136 Cal.App.4th at p. 449.) In other words, for the exception to apply the bond between the parent and child must be a parent-child bond, rather than the type of bond a child might have with a friendly visitor or non-parent relative, such as an aunt. (*In re Angel B.* (2002) 97 Cal.App.4th 454, 468.)

A social worker who observed Mother’s June 26, 2012, visit with K.A. concluded, “[Mother] does not know how to parent [K.A.].” As evidence, the social worker cited the following interaction: K.A. told Mother she was not feeling well. In response, Mother told K.A. a necklace Mother gave her had a “special power” that would cause her to feel better. The social worker concluded Mother treated K.A. more like a friend than a daughter. As set forth *ante*, after K.A. was removed from Mother the third time, K.A. was given the opportunity to speak to Mother on the telephone. K.A. declined the opportunity in order to play with other foster children. After K.A. was detained a fourth time and placed in her prospective adoptive home, K.A. did not ask about Mother. Given the foregoing evidence, the juvenile court could reasonably conclude K.A. did not have a strong bond with Mother because K.A. did not appear troubled by Mother’s absence. Accordingly, the juvenile court could reasonably

conclude preserving K.A.'s relationship with Mother did not outweigh the benefit K.A. would gain from a stable and permanent home, especially in light of K.A.'s unstable first four years, e.g., being removed from Mother's care four different times in three different counties.

D. ADOPTABILITY

Mother contends the juvenile court erred by terminating her parental rights because there is not sufficient evidence that K.A. is adoptable. Specifically, Mother asserts she "always" had "strong, loving, positive, appropriate, and consistent" visitation with K.A. and there was no evidence of how K.A. would react to ceasing all contact with Mother, and therefore, "there was inadequate evidence of [K.A.'s] adoptability." We disagree.

Prior to terminating parental rights, a finding must be made that the child is adoptable. (§ 366.26, subd. (c)(1).) "The finding of adoptability is reviewed under the substantial evidence test. [Citation.]" (*In re K.B.* (2009) 173 Cal.App.4th 1275, 1290 [Fourth Dist., Div. Two].)

The record reflects K.A. was placed in her prospective adoptive home on July 5, 2012. Following that placement, and only being permitted to see Mother for one hour per month, K.A. was able to start weaning off her sleep medication. K.A. no longer needed the sleep medication because she was "so happy and content." The medication had been necessary due to K.A. suffering anxiety.

It can be inferred from the foregoing evidence that K.A. would likely be more adoptable following the termination of contact with Mother, because Mother caused

K.A. to be anxious and lose sleep. Once contact with Mother was greatly reduced, K.A. blossomed into a happy child that was learning to sleep without medication. Thus, substantial evidence supports the finding that K.A. would be adoptable after ceasing contact with Mother.

DISPOSITION

The judgment is affirmed.

NOT TO BE PUBLISHED IN OFFICIAL REPORTS

MILLER
J.

We concur:

HOLLENHORST
Acting P. J.

CODRINGTON
J.